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Office of the Secretary
Federal Communications Commission (FCC)
Room 222
1919 M Street, N.W.
Washington, DC 20054

RE: CC Docket No. 96-263 Usage of the Public Switched Network by Information Service and Internet Access Provider - NOI Comment

Dear Sir:

NYSERNet, Inc. is a not-for-profit corporation supporting educational institutions efforts to advance their internetworking access and capabilities throughout New York State. As such, we wish to provide cautionary comments on mandating access fees for Enhanced Service Providers in general and specifically Internet Service Providers or requiring access methodologies which are not affordable to all. We recognize that the growth in use of the Internet requires technical solutions to provide more efficient and cost effective transport through the PSTN. How these solutions are implemented and the methods assigned to recover costs will affect not only the networks performance but the makeup of the user community.

Imposition of InterState Access fees, while serving as a mechanism to recover LEC expenses both current and anticipated, will also act as a brake on the growth of dial access consumers and the services they access through the network. The impact of this will have its greatest effect on users who are already underserved and can least afford to pay the increase in costs these access fees would give rise to. The Commission's tentative conclusion[1], to retain existing pricing structure for information services, will allow continued maturation of the industry and provide affordable access options to all users.

While reviewing the data submitted by the various parties for this NOI[2] we believe the Commission should also consider the following factors before developing its final recommendation:

- impact any NPRM will have on the disadvantaged user community
- the LEC ability to recover its legitimate costs through other methods
- the ability to provide any alternative access methods ubiquitously and at comparable cost
- The ongoing need to support affordable dial access for economically disadvantaged

[1] CC Docket No. 96-263, "Notice of Proposed RuleMaking, Third Report and Order, and Notice of Inquiry, Dec 23, 1996, p283

[22] id p 311

Working closely with educational institutions over the last eleven years has made us keenly aware of the barriers that are faced by schools and libraries in accessing and affording Internet services. Often these organizations are unable to afford the higher cost, but more appropriate, dedicated leased lines for Internet access. These cost factors often present themselves at several levels, the local loop, terminating equipment and trained staff to support the service are all cost items which must be paid for from limited budgets. In some more rural areas accessibility rather than affordability is the constraint faced by educators. Although they may desire the higher performance of leased line or other more advanced access methods they are unable to purchase these services from local providers. To resolve these problems many schools and libraries in New York State have opted to implement dial access services as a means to cost effectively use the tools the Internet provides.

Although the proposed Universal Service Funding for schools and libraries will improve their ability to use other access technologies, there remains a substantial group of users who will not benefit from this fund. Users outside the school and library community, and even some within that group, will by necessity be dependent on dial access as their only means of Internet access at an affordable cost.

The barriers mentioned earlier are also faced by many small not-for-profit community service groups, low income households, small businesses and the general population in remote areas. Although these groups do not make up a large percentage of the dial access population any change in access policy will have a disproportionate impact on them, if that change brings with it higher access costs.

In order to take advantage of the benefits that Internet use brings, these users make do with the less efficient dial access methods. Alternative access methods should be developed which allow users and small service providers an opportunity to either utilize the new service affordably or maintain their existing type of service without penalty. Failure to do so has the potential to make dial access unaffordable for these users. Forcing them to either divert scarce resources to Internet access from other programs or give up the advantages gained by using the Internet.

Access capabilities through cable television companies, wireless technology, LEC ISDN and others are currently being deployed and offer an alternative to analog dial access in some areas. These services, however, are not widely available and are generally more expensive than existing dial access. While these access methods will serve to bring new users onto the Internet and offer higher speed access to existing dial users they will not solve the underlying cost and technology barriers experienced by many. In fact, these services have the potential to exaggerate these existing problems.

In rural areas dial access capabilities are often provided by small Internet access resellers who derive a substantial portion of their revenue from dial access customers. Replacing existing dial access infrastructure and its underlying cost structure, has the potential to increase cost of operations as well as reduce the revenue base for these providers. In either case, the potential exists to create an environment which reduces profit to the point that the company is no longer viable. This results in still higher costs for the user community, as a result of decreased competition or in a worst case scenario, eliminates dial access as an alternative in that area entirely.

We recognize that it is not incumbent upon the LEC's to bear the costs of supporting other service providers even if that support results in direct benefit to the public. There is however, a need to fairly judge the cost of supporting existing dial access service providers in rural areas when implementing any alternative access methods. Revenues from cotermination agreements, leased lines and other services which are provided to the ISP to support their service should be a factor in determining these costs. A portion of the revenue derived from second residential phone lines should also be included in these models.

It should be determined whether ISPs serving rural areas have the same impact on the PSTN as their counterparts in suburban and urban areas. In general it is assumed that dial access traffic impacts the PSTN at three levels, the originating central office, the terminating central office and the Intermachine trunks connecting each. The most substantial impact of this traffic aggregation occurs at the terminating central office. As a result of this funneling effect, the LEC is forced to incur the

increased cost of supporting these calls over each of these network components. In the case of rural ISPs where central offices are more geographically disbursed this pattern may vary. It should be identified if dial access traffic has any significant impact on intermachine trunking and central offices other than the terminating central office or if the traffic is concentrated on just the terminating office. If the later is the case the resulting cost to the LEC is lower and should be taken into account when addressing these areas. Consideration should also be given to what extent the LEC's costs are offset by extended message unit charges paid by the user for this traffic.

Any recommendation on alternative access methods should take into consideration the need to implement this new technology ubiquitously if the rate structure for existing dial access is to change. Implementation of these technologies based on return on investment will likely result in upgrades to larger central offices in high concentration areas initially, with penetration into the remainder of the network phased in over time. This model is justified and supportable if the existing dial access rate structure remains in place in areas where the LEC does not offer the alternative access method. Failure to do this will disincent the LEC from implementing new technology in areas of greatest economic need.

This implementation process should be coupled with a rate structure that creates an affordable alternative for carrying dial access traffic rather than raising existing rates to match some new benchmark. As we have discussed earlier use of dial access for many organizations in economically depressed or isolated areas is a necessity not a preferred choice. Alternatives to better carry this traffic through the PSTN must allow these disadvantaged institutions to benefit from economies to be gained by the LEC. Network upgrades that transfer costs to the end user will only serve to impede the growth of this industry, with its most immediate impact being felt by those who can least afford it.

Future uses and growth of the Internet will continue to stress the existing PSTN. Seeking alternative means to handle this growth now, before it adversely affects the voice network, is prudent and justified. It is obvious that as on-line resources continue to grow and technology becomes more integrated into our educational system the need for affordable access will continue to expand rapidly. It should also be expected that as this occurs access to the Internet and its resources will become less an option and more of a requirement for success in our society. We strongly urge the Commission to consider the impact on the many users, both institutional and private, who will be left behind if the solutions to this problem transfer the economic burden to the end user.

Respectfully submitted,

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cc: Competitive Pricing Bureau (2 copies)